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LAST EDITION

WEATHER FOR SALT LAKE
Partly cloudy, rain or snow.

THE METALS

Silver, 57 1/2; per ounce.
Copper, 11 1/2; New York, 12 1/2 to 13 1/2.
Lead, 22 1/2; New York, 21 1/2 to 22 1/2.
Tin, 41 1/2; New York, 40 1/2 to 41 1/2.

CONGRESS LACKS THE AUTHORITY

Cannot Pry Into the Family Affairs of the Apostles.

Fine Distinction Drawn
As to Practice of Polygamy.

President Smith Stands Up for
the Plural Wife System.

(Special to The Herald.)

WASHINGTON, D. C., March 5.—At the close of the fourth day's hearing in the Smoot case both sides profess to feel satisfied with the situation. The protestants are confident that they have convinced the majority of the election committee that the Mormon church encourages polygamy by precept and practice of its most honored officers; that the Mormon church interferes in politics and business, and that its leaders live and act in open violation of the law. They assert they will prove directly that Smoot is here as a representative of a polygamous system, one of a hierarchy which practices and encourages polygamy, and not representing the general citizenship of the state of Utah.

Claims of Defense.

Friends of Smoot, on the other hand, express the opinion that the prosecution has failed to do more than show that one individual, Joseph F. Smith, has violated the law; that Smith has repeatedly declared that he himself was responsible for his own acts and that he stands ready to take his chances of punishment; that nothing has been produced to connect Smoot with any of Smith's misdeeds, and the latter has repeatedly disclaimed the authority or right of any minor officer in his church or any other person to interfere with his family affairs; that the testimony has shown that the Mormon church has faithfully lived up to its promises regarding plural marriages, and that polygamy is rapidly disappearing and will soon be wholly eliminated.

Definition of Polygamy.

Today's session drew from President Smith a vehement declaration against the right of the United States to interfere in his private affairs, as there are state laws to govern his action or his transgressions. The outburst of the witness came in connection with questions from members of the committee on the point of the distinction between the law prohibiting polygamy. He said he did not live in polygamy, but he did practice polygamous cohabitation, and added:

"I should like to draw the distinction that there is a great difference, in our judgment, between the law prohibiting plural marriages and the law prohibiting what is termed unlawful cohabitation in law. The state of Utah has power to deal with me in my offenses against law, and I confess that the United States has no business with my private conduct, any more than it has with the private conduct of any citizen of Utah or any other state. It is the law of the state to which I am amenable, and if the officers of the law have not done their duty toward me, I cannot blame them. I think they have some respect for me."

A Conservative Opinion.

The Evening Star, regarded as an extremely conservative paper, says tonight of the Smoot case:

"From the testimony given today, doubt is raised in the minds of very many persons who have paid close attention to the proceedings, whether any official of the Mormon church will be allowed to occupy a seat in the senate as long as polygamy exists in the form in which it has been acknowledged by President Smith. The situation today makes it appear very doubtful whether Senator Smoot can be allowed by the committee and by the senate to occupy a seat in the senate."

"The declaration of the part of President Smith that he did not think congress had any right to interfere in his family affairs, and that the family affairs of the people of Utah are regarded as more offensive than it would otherwise be because of the fact that it is believed here, and people from Utah verify this belief, that, as now organized, and as they will probably be organized in future, the state courts of Utah are under control of the Mormon church, or at least dominated in such a way that a polygamist could not be convicted in them."

Favorable Report Impossible.

"Many persons who are carefully watching the proceedings here declare it would be impossible for the committee to report favorably on the right of Senator Smoot to continue to hold his seat, unless Senator Smoot, in language forcible and impossible of more than a single interpretation, should absolutely disavow this declaration on the part of President Smith. If he should do so with that earnestness that would be regarded as essential to the family affairs of the people of Utah, the committee might improve his chance to retain his seat in the senate, but even such action on the part of Senator Smoot, while he is an apostle of the Mormon church, might not be conclusive evidence to the committee that he in no way shares the views of the church, and President Smith's declaration is regarded as the official view of the church, so as to relieve him from responsibility for the attitude of the organization. It will be a question to determine whether Senator Smoot, as an apostle of the church and one of its highest officers, can disconnect himself with the declared policies of that organization without disconnecting himself with the organization itself."

Lessen in Percentage.

Senator Dubois this evening examined the statistics of Utah's population, and found that they verified his statement before the committee on elections this morning during the Smoot hearing that over 20 per cent of the

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MR. CLEVELAND—"DID YOU EVER EAT WITH A —?"

Homer Davenport spent yesterday in Provo. He stepped off a Rio Grande train there at 10 o'clock in the morning, and before noon he could have had the town for the asking. More, the people who met him felt like giving him the town without waiting to be asked for it. After you have known Homer Davenport a few minutes you feel as if you had known him all your life; you wonder if he isn't a dear old college chum in disguise or reincarnated.

"Aren't those mountains great?" he said. "Don't they visit with you?"

And the cartoonist drew a deep breath and said, "I don't know, but the range of hills to the east. The Herald wanted an original cartoon from Mr. Davenport. Would he oblige? Why, certainly, he said, 'I'll be glad to get the hold of some Bristol board of the right quality, some India ink and a fine drawing pen.'"

"That sounded easy. 'I'll go with you while we look up the implements of war,'" said he. Down the street a little

way we met Mayor Roylance. The mayor was tickled to death to meet Mr. Davenport, and Mr. Davenport was mightily pleased to meet the mayor. Could the mayor tell us where we could get some Bristol board, some India ink, and a sharp pen? Sure, if you don't see what you want in Provo ask Mayor Roylance for it.

"You'll find what you want across the street," said the mayor, confidently. He led the way across the street. The man had India ink. He also had fine pens and Bristol board. Alas, the Bristol board was as useful for drawing purposes as blotting paper. The mayor was not dismayed. "We'll try John Blank's," he said. John Blank had Bristol board, yes, lots of it. Would he kindly step upstairs and make a selection? We would. More blotting paper. A dozen different stores and printers were tried in rapid succession. Plenty of blotting paper, but no Bristol board of the right quality.

"Guess I'll have to use a paint

brush," said Davenport dubiously. "But say, aren't these mountains great?" he said, again. "I don't know, but the range of hills to the east. The Herald wanted an original cartoon from Mr. Davenport. Would he oblige? Why, certainly, he said, 'I'll be glad to get the hold of some Bristol board of the right quality, some India ink and a fine drawing pen.'"

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Z. C. M. I. SENDS OUT CIRCULAR

Aid of the Wholesale Dealers and Manufacturers Asked in Bringing Pressure to Bear Upon Senators From Their States.

CHICAGO, March 5.—Circulars of the Zion Co-operative Mercantile Institution of Utah bearing on the Smoot case, and sent out from Salt Lake City, have been received in Chicago. The full text of the circulars follows:

From Zion's Co-operative Mercantile Institution, Salt Lake City:

Gentlemen—Once more the country is being disturbed by an anti-Mormon agitation, the purpose in view being the expulsion from the United States senate of Reed Smoot, a senator from Utah, who was duly elected and seated, notwithstanding the disturbance created at the time by over-zealous and mistaken religious enthusiasts.

It is conceded by his opponents that Senator Smoot is not, and never has been, a polygamist; that his personal character is beyond reproach; that nothing can be alleged against him except that he is an apostle in the Mormon church.

A Gentle Hint.

A word from you to the senators from your state to strengthen them in resisting the force of religious prejudice certainly would receive due consideration and it would be in the interest of republican principles, of civil and religious liberty and of this nation, as well as the state of Utah. We are, gentlemen, yours respectfully,

JOSEPH E. SMITH,
JOHN R. WINDER,
ANTHONY H. LEWIS,
JOHN H. MINTYRE,
JESSE DINWIDDIE,
THOMAS C. WELLS,
A. W. CARLSON,
JOHN R. BARNES.

DIETRICH CASE OPENS

Nebraska Senator Looking For Vindication After Dodging the Courts.

Washington, March 5.—Senator Dietrich of Nebraska today appeared before a committee of the senate appointed to investigate the transaction in which Jacob Fisher received the appointment as postmaster at Hastings, Neb., and the charges on which the senator was indicted for trafficking in federal offices.

The investigation opened with a review of the documents filed by District Attorney W. S. Summers of Nebraska, and a canvass of the list of witnesses, by which Mr. Summers said he could prove his case. Many of the witnesses were for the purpose of identifying certain checks and papers alleged to figure in the case. Senator Dietrich, however, went over the list and expressed a willingness to identify the checks and papers himself and thus avoid the necessity for summoning a large number of persons. This also will shorten the inquiry, which will begin on March 11.

LOSS \$100,000.

Perth Amboy, N. J., March 5.—Fire today caused a loss of \$100,000 in the building occupied by Reynolds & Hanson's dry goods store, J. H. & F. Hilder, grocers, and Steubodino Bros., shoe dealers.

ODELL PASSES UP THE OFFER

Governor of New York Prefers His Present Position of Boss to Chairmanship of the National Committee.

NEW YORK, March 5.—Stating that he was suffering from fever, cold and sore throat, Governor B. B. Odell today abandoned his proposed trip to Washington to consult with President Roosevelt, and returned to Albany, at the same time putting himself out of line for the chairmanship of the national republican committee.

"Nothing has been settled yet," the governor said as to his acceptance of the state chairmanship, and this matter is still under consideration. In mentioning the permanent abandonment for the present of the Washington trip, Governor Odell also made an emphatic declaration on the subject of his leadership in this state, stating that "there is nothing in the affairs of the party in this state that I cannot settle myself without assistance, if I wish, and the president isn't apt to want me to settle the affairs of the nation. I shall not go to Washington for some time, as I have several engagements up the state and there is nothing I wish to see the president about that is urgent or that will not keep."

"Will you accept the national chairmanship?" he was asked. "No, I never had such an idea," he replied. "It is not the kind of work I am looking for and I could not accept it if it were offered to me on a silver platter."

TERRIBLE TRAGEDY

AT WINTERSET, IA.

Winter, Ia., March 5.—After a terrible fight, in which pistols and knives were freely used, John Thornborough, a young married man living near here, shot and killed Fred Peacock, and perhaps fatally wounded Peacock's father, a man of 60 years. Thornborough is terribly gashed about the neck and face, but will recover. The fatal fight grew out of an effort on the part of Thornborough to induce his wife, from whom he is separated, to leave the Peacock home and accompany him.

JAPS WILL BE SIMPLY CRUSHED

Russians Expect to Conquer by Weight of Numbers.

Heavy Land Fighting Will Not Occur for Weeks.

Four Army Corps Expected to Drive the Enemy Into the Sea.

ST. PETERSBURG, March 5.—Although almost four weeks have elapsed since the Japanese first attacked Port Arthur, here the war is considered hardly begun. Heavy land fighting, upon which the fate of the campaign depends, is not expected much before the end of April. By this time Russia will have in the field, exclusive of the large army of men required to guard the railroads, four army corps, each with a cavalry division and an artillery brigade. All that has happened so far, or is going to happen until these forces are in the field, is considered, according to the Russian view, to be nothing more than the prologue to the real drama.

Unfortunate Beginning.

The crippling of the Port Arthur fleet was unfortunate, in that it gave the enemy command of the sea at the very outset. It is, however, of relatively small importance from the standpoint of the main strategy of the war, whether Port Arthur stands or falls. But as long as it holds out and the fleet is harbored there it will constitute a potential menace which will restrict and hamper Japan's operations, and the Russians are determined to defend Port Arthur as heroically as they did Sebastopol. No large garrisons will be retained there; 10,000 men are as good as 100,000 for defense, while the more men the more mouths to feed. There are enough provisions there now to last for eight months. In addition, there will be a division of Cossacks with mountain batteries and the means to oppose the landing of the Japanese and harass them if they succeed in investing the city.

Only One Road.

Viceroy Alexieff retains his headquarters at Mukden, through which 3,000 or 4,000 soldiers are passing daily to the positions which the main armies will occupy. The Russians believe that for military purposes there is only one road over which the Japanese can come from Korea. All the troops landed at Chemulpo, Mokpo and Chinnampo must use the "Peking road." Consequently the landings at Palsin Bay and the other places on the coast of northern Korea are not considered important, the absence of roads preventing these forces from combining with the main body.

Cossacks in Front.

The Cossacks, mounted infantry and light guns now across the Yalu river will serve to harass the enemy in every possible way, as well as to hold him in check until the Russian main armies and reserves are concentrated and disposed. Sharp fighting may occur between the advance parties, but nothing of a decisive character is anticipated.

The Russian plan contemplates taking no chances on the score of inferior numbers. By sheer weight of men and guns, if nothing else, when the proper time arrives, Russia counts on overwhelming the Japanese and rolling them back through Korea. It is realized that the vastness of the theatre of war will make the protection of the railroad, the sole means for the transportation of troops and supplies from Europe, one of the most difficult phases of the Russian military problem. With the Japanese in command of the sea there always the possibility of their landing small bodies of men in unexpected places to make incursions into the interior to cut the railroad and telegraph lines and blow up bridges, but adequate measures are believed to have been taken to guard against such misfortune.

Give Japs Full Credit.

It is a mistake to suppose that the Russians underestimate the prowess of their Japanese opponents. They admit the fine marksmanship of the Japanese and their marvelous ability in determining ranges, yet the Russians do not believe that the Japanese can successfully face the legions of the czar. On the sea the maritime life of the Japanese gives them a natural advantage, but on land, where boldness and the traditions of the Russian army, the men of the empire have perfect faith, borne of their numerous experiences with pagan tribes and the fatalism inherent in the Russian character. They believe that Asiatics cannot meet Europeans in battle array; that a yellow race cannot triumph over a white, or heathens over Christians.

SITUATION CLEARING.

Possibility of a General War Now Considered Remote.

London, March 5.—The foreign office records the week just ended as one in which much has been done to guarantee the continued peace of Europe. The Associated Press is authorized to say, however, that the rumors that France, Great Britain or any other power is contemplating intervention of the taking of any steps with the idea of ending the war are quite baseless. The frequent visits of M. Cambon, the French ambassador, to Foreign Minister Lansdowne this week have no connection with the present Japanese treaty now on the verge of conclusion to settle longstanding difficulties between Great Britain and France on Co-